

**MINUTES
BOARD OF FORESTRY
June 7 & 8, 1999
Sacramento, California**

MEMBERS PRESENT:

Robert J. Kerstiens, Chairman
Raymond Flynn
Robert Heald
Tharon O'Dell
Darryl Young

BOARD STAFF PRESENT:

Christopher P. Rowney
Executive Officer
Daniel R. Sendek
Executive Officer, Foresters Licensing
Fran Henson, Committee Consultant
Donna Stadler, Executive Assistant

DEPARTMENTAL STAFF:

Andrea Tuttle, Director
Woody Allshouse, Chief Deputy Director
Dean Lucke, Assistant Deputy Director
Ross Johnson, Deputy Director
Resource Management
Dennis Hall, Regulations Coordinator

CALL TO ORDER

Chairman Kerstiens called the June 1999 Board of Forestry and Fire Protection meeting to order.

Director Tuttle introduced Darryl Young as newly appointed Board of Forestry and Fire Protection member. She said that the swearing-in took place earlier in her office and that it was a temporary appointment.

Mr. Young said that it was a pleasure to be here and able to help.

REPORT OF THE EXECUTIVE SESSION

Chairman Kerstiens reported that the Board met in Executive Session to discuss pending litigation under Section 11126 (e) of the Government Code and matters related to Foresters Licensing under Section 11126 (c) 1, 2, and 3 of the Government Code.

Mr. Christopher Rowney, Executive Officer of the Board, said that in Executive Session, the Board discussed case 217 involving RPF number 1950. He reported that the Board approved a 30-day extension, as provided for in Section 11517(d) of the Government Code. The Board will address the issues in this case at its next Executive Session meeting. No additional information would be required at this time.

Mr. Daniel Sendek, Executive Officer for Licensing, announced that the Board approved the full reinstatement of the License of William D. Solinsky, RPF 2297, in case number 242. He noted that Mr. Solinsky completed all of the Stipulated Agreement requirements and exceeded the educational requirement.

MINUTES

Chairman Kerstiens asked for approval of the Board's March 1999 minutes.

99-06-1 Mr. O'Dell moved to approve the March 1999 minutes as amended. Mr. Young seconded the motion, and all were in favor.

CHAIRMAN'S REPORT

Chairman Kerstiens said that on May 6, 1999, he attended the 14th Annual Fire Crew Preparedness Exercise at the Ishi Conservation Camp. It was a very professional presentation. He reported that he was a keynote speaker at the Sierra Pacific Industries, California Department of Forestry & Fire Protection, and the United States Forest Service' 38th Annual SPI-Fire Cooperative Meeting on May 28, 1999, held in Butte County. He also attended the Noxious Weeds meeting at the Nature Conservancy and that the focused was on the Medusa head and Starthistle problems. The Chairman said that burning is the only means of controlling Medusa-head, and it takes three years to get rid of Star thistle--it is a very serious problem.

DIRECTOR'S REPORT

Ms. Andrea Tuttle, Director of Forestry and Fire Protection, introduced Woody Allshouse, Chief Deputy Director. She said that Woody has had a lifetime in CDF and they are working together as a team.

Director Tuttle then expressed her appreciation to former Director, Richard Wilson, for providing a smooth, gracious, and generous transition.

Director Tuttle said that the Department would like to see cooperative agreements with the environmental communities. She then said that the Department's goal is to work cooperatively with the departments within the Resources Agency and cross agencies with CalEPA. The Department will be working as a partner with federal agencies in looking for good science from all sides and for a good Forest Practice program throughout California. Another goal is getting people involved. The Resources Agency and CalEPA will be asking the Board to make a strong stand. The Governor's approach is to build policy one brick at a time. She then reviewed ongoing programs. She is working on a Director's Guidance package for the Department. It is meant to be an administrative guidance for the field with regards to THPs. She then reviewed the Budget for the Board. She said that there is a lot going on and the Board has a lot coming to it.

Mr. Woody Allshouse, Chief Deputy Director, reported that fire season 1999 has been declared both in the north and the south portions of the State and CDF will be fully staffed by July 1, 1999. He then said that there have been almost twice as many fires this year as during this same time last year and significantly over the five-year average.

Mr. Allshouse said that the BCP on the conversion of the air fleet from the S2 to the S2T would be out of the Conference Committee soon. The S2T should be on line in the Columbia and Garden Valley Air Attack Stations by the middle of the month. The Department's goal is to have 23 S2Ts operational by 2003. The conversion of the new air attack ship (OU-10), for the Chief Operators that coordinate all of the aircraft activity on an incident, should be completed by next year. He then said that the Super Hueys are up and running. Mr. Allshouse then reviewed the Conservation Camp program for the Board. There was also discussion regarding Schedule A & C Contract Counties.

Mr. Glen Newman, Chief Coast-Cascade Region, reported that T. Scott Gross, author and TV celebrity would participate in a CDF Firefighter I Academy. He will use his experience to develop an hour-long educational program for the Discovery Channel. Mr. Gross will attend the LNU program in mid-June.

Mr. Newman said that all of the CDF fire crews have completed their Fire Preparedness training.

Mr. Newman said that an arrest warrant was issued for a former State Fire Marshal licensed fire extinguisher serviceman on two counts of burglary. He said that the Department is investigating a possible arson involving the 2.5 million-dollar loss of the Humboldt State Park Headquarters that burned prior to fire season. He then said that there has also been an increase in bomb-related calls at schools since the Littleton High School incident.

Mr. Newman reviewed the 1998/99 Fiscal Year Projects for the Board. He then said that staff was currently focusing on three areas of training related to the Human Rights Program. The Equal Employment Opportunity counselor training, the Department's substance abuse policy training, and a four-hour program to increase awareness of diversity issues.

Mr. Newman said that the USFS had two fires that were escapes, one in Modoc County and one in Mendocino County. CDF supplied crews and engines to assist in getting those fires under control. He said that, on the Latour State Demonstration Forest, two technical research articles were completed and submitted for publication. On Boggs Mountain Demonstration State Forest there is a small commercial thinning that should be completed by the end of June. Recreation is heavy on the weekends. On the Soquel Demonstration State Forest, the Department of Fish and Game reviewed the Amaya 1997 timber sale. The area held up well over the winter months. He said that work is about to begin in the Bob Woods timber sales area of Jackson Demonstration State Forest (JDSF). It is a large sale and will include some road construction with harvesting with both tractors and skyline machines. He said that recreation on the Jackson is open. Staff will be assisting the Department with a Biodiversity Council meeting in Fort Bragg on June 9 and 10 that will include a tour of the JDSF.

Mr. Tim Turner, Chief, Sierra-South Region, said that the fire season was declared in the Sierra-South on May 24, 1999. He said that the Blue BCP made a difference for the Region this year in having the funds to staff the engines. The aircraft are on line in San Diego, Riverside, and in Fresno Counties. They should come on line in Hollister, Paso Robles, and Columbia soon, and the S2Ts will be on line in Columbia shortly. He said that the fire preparedness exercises are complete everywhere except in Miramonte, Fresno County, because they want to combine it with the VMP burn in order to get the line-fire training. This summer, the Region will be holding a region-wide safety stand-down in an effort to address problems before they occur. In May, the Sierra-South completed an ECC expansion in San Luis Obispo that is a joint command with Los Padres National Forest. The Esperansa and Murphy FFS's are in the Tuolumne-Calaveras Ranger Unit. The FFS in Esperansa is scheduled for its dedication on

June 30, 1999. The Schedule A & C local program continues to move forward. At the semi-annual meeting with all of the Contract Counties, the new three-year format for the next agreement was approved. The Department is implementing its new physical fitness program in all the Ranger Units. The Region is in the ordering and delivering phase on the third breathing apparatus for each of its wildlands fire engines.

Chairman Kerstiens asked about the border issue at Otay Mountain.

Mr. Turner said that the Border Agency Fire Council Agreement is still in effect. Because of the effort to move the border fence east and because of the efforts of the Border Patrol and the Emigration people, the number of people coming across has moved east. The fire occurrence at Otay has decreased. There will be a Border Alliance meeting soon. The Alliance is being used as a model for other possible agreements between the United States and Baja California. The understanding with the Mexican Government that allows CDF to go across the border without prior permission for a certain distance to put out initial attack fires is still in existence.

MONITORING STUDY GROUP (MSG) UPDATE

Mr. O'Dell reviewed the background of the MSG. He said that the MSG is one of the most involved groups he has served on and it has been a pleasure working with them. The group takes its job very seriously.

Mr. Pete Cafferata, CDF, Forest Practices Hydrologist, provided the Board with copies of the Interim Report of the MSG Hillslope Monitoring Program. He then reviewed the report with a slide presentation for the Board.

There was some further discussion.

Mr. Richard Gienger said that there is a failure of the RPF to do mapping. He said that it was not just the LTOs.

Mr. Mark Rentz, California Forestry Association (CFA), asked if the MSG planned on doing an analysis on how much of the deviation were minor vs. major.

Mr. Cafferata said that they have not divided the minor and major categories, but that it could be done.

WATERSHED RESTORATION AND PROTECTION (WPRC) SCIENCE COMMITTEE UPDATE

Mr. Mark Hite, CDF, referred to the Board's binder and the letter from the Scientific Review Panel. He then reviewed it for the Board. He said that the draft WPRC report is out and that the final will be out on June 15, 1999. The report will be transmitted to the Resources Agency and the National Marine Fisheries Service (NMFS).

Chairman Kerstiens said that the Board would review that report for the July meeting.

Mr. Flynn asked Director Tuttle about the Freshwater report from the University.

Mr. Dean Lucke, Assistant Deputy Director, said that the draft report would be available in July and the final in September. The report encompasses more than the Freshwater. It will go into the cumulative impact analysis. The Board will receive the final report as soon as it is available.

REPORT OF THE USDA FOREST SERVICE

Ms. Karen Barnette, Assistant to the Regional Forester, said that Bradley E. Powell was still Acting Regional Forester and Roberta A. Moltzen is Deputy Regional Forester for State and Private Foresters.

Ms. Barnette reported on that the Herger-Feinstein Quincy Library Group Legislation and Implementation directed the USFS to conduct a demonstration project over a five-year period in three of the National Forests; the Lassen, Plumas, and the Sierraville District of the Tahoe National Forest. The Draft Environmental Impact Statement (DEIS) is scheduled to be released June 9, 1999. She also reported that the Sierra Nevada Framework Environmental Impact Statement (EIS) would include 10 California forests. The Draft EIS would be out on June 11, 1999, followed by a 45-day period for public comment. She then said that the Sierra-Nevada Framework EIS would amend the 11 forest plans in the Sierra-Nevada. The Draft EIS should be out by the end of July. She said that the Forest Service believes that this has been the most open process in which it has engaged.

Ms. Barnette reported that the Forest Service had a prescribed burn that escaped due to high winds.

Ms. Barnette then said that the review of Region 5 by the Price-Waterhouse Cooper has been completed. It included California, Hawaii, and the Pacific Affiliated Nations. There were approximately 150 people interviewed, and a number of recommendations are forthcoming. There is a copy of that review out and available upon request. She said that the recommendations focused on

leadership in the Region; some focused on the relationship with this region of the Forest Service and the Washington Office of the Forest Service. The Acting Regional Forester currently has a team preparing an implementation plan.

Chairman Kerstiens asked about the Forest Service getting a 20 percent cut across the nation.

Ms. Barnette said that she had not heard the 20 percent figure. However, she would try to arrange for Ray Quintanar to speak to the Board at its next meeting regarding this issue.

Mr. Flynn asked about the drop in personnel at the Six Rivers National Forest.

Ms. Barnette said that the drop of personnel on the Six Rivers was due to budget cuts.

Ms. Barnette announced that on July 7, 1999, there would be an open house at the Regional Office's new facility on Mare Island, Vallejo. She extended an invitation to any Board members who would be able to attend.

DISCUSSION OF POSSIBLE POSITIONS OR ACTIONS ON ISSUES WITHIN JURISDICTIONS OF FEDERAL AGENCIES INCLUDING AN UPDATE ON COHO AND STEELHEAD FROM THE NATIONAL MARINE FISHERIES SERVICE

Mr. Joe Blum, National Marines Fisheries Service (NMFS), said that the NMFS involvement with the WPRC, both state and federal, has been to set the basic course, explain what was needed, provide them with questions, and provided staff where necessary. The report that the Board receives from the WPRC is the Science Committee's report.

Mr. Blum suggested that the public be given the opportunity to comment on the Hillslope Monitoring Report during the Board's next meeting. He then said that in California, NMFS listed the Chinook Salmon as a threatened species in 1990. Since that time, NMFS has been conducting a coast-wide review. Within California there have been two species of Coho; one for Central California, and one in the trans-boundary area between California and Oregon. They were listed as Threatened. Four species of Steelhead have been listed; Southern California, Endangered; South Central California, Threatened; Central California Coast, Threatened; and Central Valley Steelhead, Threatened. Proposed as not warranted for listing is the Coastal Cutthroat Trout which includes the California Coastal Cutthroat Trout. In March of 1998, the State of California and the NMFS entered into a Memorandum of Agreement (MOA) not to list Northern California Steelhead and Klamath Mountain Province Trans-boundary Steelhead. A lawsuit had been filed and a status review hearing is set for July 3, 1999, regarding the MOU. He encouraged

the Board to take whatever action necessary to help insure that something is in place by January 2000.

Mr. Blum said that the new Acting National Marine Fisheries Service Regional Administrator is Rod McGinnes. He is very knowledgeable on California issues.

There was some further discussion.

REPORT OF THE COST SHARE RATES FOR FISCAL YEAR 1999-2000 OF THE CALIFORNIA FOREST IMPROVEMENT PROGRAM (CFIP)

Mr. Ross Johnson, CDF Deputy Director, Resource Management, introduced the topic. He provided the Board with the background on the CFIP. He said that with this year's budget there are cost share funds for 22 Million dollars.

Mr. Steve Jones, Deputy Chief for Forestry Assistance, reviewed the proposed 1999 CFIP cost share cap rates with the Board. He noted that the Stewardship Improvement Program (SIP) has not been funded.

99-06-2 Mr. Flynn moved to accept the Proposed 1999 CFIP Cost Share Cap Rates as presented. Mr. O'Dell seconded the motion, and all were in favor.

Mr. Richard Gienger said that it is nice to see this program being funded again. It could be a vehicle to pay for fisheries conservation programs and THP preparation for small landowners.

Mr. Dan Weldon, Forest Landowners of California (FLOC), said that the FLOC supports the proposed rate structure.

ADVISORY COMMITTEE REPORTS

CALIFORNIA FOREST PEST COUNCIL (CFPC)

Mr. Steve Jones reported for the CFPC. He announced that the 1999 Joint Field Meeting of the Insect and Disease Committees of the CFPC would be on June 22 and 23, 1999, in Santa Rosa. The CFPC 1999 Weed Tour would be on July 21 and 22 in the Sonora Area. Mr. Jones then said that the Pest Condition Report would be available for the Board's next meeting.

RANGE MANAGEMENT ADVISORY COMMITTEE (RMAC)

Mr. Tom Randolph, Secretary for RMAC, said that RMAC did not have a quorum at the May 20, 1999, meeting. He then summarized the discussions from that meeting. Among the topics discussed were Vegetation Management and Air Resources Issues. There is a need for public awareness regarding fuel loading. The RMAC subcommittee on Water Quality is working with Agency in an effort to conduct workshops on strategies for implementing the Rangeland Water Quality Plan for California.

Mr. Randolph said that the subcommittee on predator control is looking into the new Mountain Lion initiative. If appropriate, RMAC will provide input to Fish & Game and the Legislature.

Mr. Randolph then reviewed the Noxious Weed Program and Legislation for the Board. He said that the Strategic Plan is a grass-roots strategy for dealing with Noxious Weeds in California. The Strategic Plan for Noxious Weeds will be implemented by the Department of Food and Agriculture.

Mr. Randolph reported that the subcommittee for Public Lands is working with the USFS on the Sierra Nevada Ecosystem Project. He also said that the Certified Rangeland Manager (CRM) subcommittee is working with UC Extension to recommend a degree of study in Range Management.

Chairman Kerstiens said that until the Resource Protection Committee is meeting again, RMAC needs to keep the Board informed on the Prescribed Fire and Air Quality Programs.

Mr. Nate Daechoretz, Program Manager for the Department of Food and Agriculture, said that the DFA does not deal with invasive species. He said the DFA has a Biological Control Program that tries to implement biologically based integrated pest management practices in an effort to control the Yellow Star Thistle. He said that the DFA has been working with RMAC and at the local level forming the weed management areas. There are twelve of these areas across the state of considerable size. These are private and public partnerships and, in order to have a good program, there needs to be some base funding to maintain outreach for detection and treatment levels.

There was some further discussion.

Mr. Daechoretz said that CalTrans is minimally involved in noxious weed abatement.

Mr. Young asked about the funding needed to implement the Strategic Plan.

Mr. Daechoretz said that it would be approximately 1.5 million dollars and that by the end of the year a basis for that funding would have to be shown. He then reviewed the Plan with the Board.

APPOINTMENT OF RANGE MANAGEMENT ADVISORY COMMITTEE MEMBERS

Mr. Randolph said that RMAC recommends that the RMAC members whose terms expired January 1999 be re-appointed.

Mr. Rowney, Executive Officer for the Board, said that he spoke with the RMAC Chairman and he also recommended that those members be retained.

Chairman Kerstiens asked for comments from the Board.

Director Tuttle asked for a briefing on the appointment process.

Mr. Rowney reviewed the process for the Director and member Young.

There was some discussion.

Mr. Young suggested that those now serving on RMAC continue until the Governor has appointed new Board members and those new members have an opportunity to participate in the selection process for the RMAC appointments.

The Board agreed to wait until the new Board appointments have an opportunity to review all the RMAC applications. Provided that the present members whose terms are expired, continue to serve until the Board takes action on the appointments.

CONSIDERATION OF THE PROPOSAL TO AMEND PORTIONS OF SECTIONS 895.1, 916 ET SEQ., AND 923 ET SEQ. OF TITLE 14, CALIFORNIA CODE OF REGULATIONS

Director Tuttle said that she was asked to make the presentation of the rules by the Resources Agency. The package concerns a proposal to amend portions of the Forest Practice Rules. The amendment would make California's commitment to protection habitat for Coho and other Salmon species explicit. It is also intended to respond to the Environmental Protection Agency (EPA) mandate to deal with TMDL watersheds. It is believed that the package would also provide an indication of California's approach in the conservation of Steelhead habitat.

Director Tuttle said that the Agency brought together representatives from various departments on the review team that have worked on this issue for some time. It is believed that the document contains all of the necessary elements to address the TMDL, Coho, and Steelhead issues in substance. Also, it is achievable in the timeframe that the Board has for adoption and implementation in 2000 due to the statutory deadline. She then reviewed the process and the goals of the package.

Director Tuttle said that the Watershed Restoration and Protection Committee (WPRC) has not yet completed its report. Therefore, the package is not ready for presentation today. She said that in July, the Resources Agency will request the Board move to send out a 45-day notice to begin the process.

There was some further discussion.

Mr. Rowney reviewed the process and timeframe for the Board.

Mr. Richard Gienger said that the Board should move on what Director Tuttle had presented. There is a package already that went through a lot of work in Committee that deals with many of these same issues. He requested that the Board combine the current package with the Agency proposal.

Director Tuttle said that the intent is that something be done to address the decline of Coho, Steelhead, and the TMDL issues.

CONSIDERATION OF RECOMMENDATION OF THE NOMINATION REVIEW COMMITTEE FOR THE FRANCIS H. RAYMOND (FHR) AWARD

Mr. Dan Sendek, Executive Officer for Professional Foresters Registration, said that the FHR Award Committee's recommendation for this year's Award is the Quincy Library Group. He then reviewed the history of the FHR Award and the current membership of the Committee for the Board.

Mr. Heald said that the FHR Committee is a broad-based group that is responsible for developing the FHR Award fund and seeks contributions. The Award recipient receives a nominal cash prize, and the Committee suggests that it be used for the promotion of responsible forestry to the general public.

99-06-3 Mr. Heald moved to approve the FHR Award for 1999 be awarded to the Quincy Library Group. Mr. O'Dell seconded the motion, and all were in favor.

PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)

Mr. Daniel R. Sendek, Executive Officer for Professional Foresters Registration, said that the PFEC met twice to review the Registered Professional Foresters (RPF) examination questions. There were discussions on RPF business practices and ethics. Also, ongoing discussions with the PFEC and the USFS related to the implementation of the Memorandum of Understanding between the Board and Region 5 of the Forest Service.

Mr. Sendek then referred to the PFEC tab item and asked for Board action.

99-06-4 Mr. Heald moved to approve the reinstatement of Kenneth Mann, RPF 399; and Peter Mastenbroek, RPF 2124. Mr. O'Dell seconded the motion, and all were in favor.

99-06-5 Mr. O'Dell moved to accept the Withdrawal of the Licenses for Leo Hession, RPF 1919; Robert Maclean, PRF 35; Dennis Orrick, RPF 519; and Theodore Zrelak, RPF 135. Mr. Heald seconded the motion, and all were in favor.

99-06-6 Mr. Heald moved to accept the Voluntary Relinquishment of the Licenses for Ronald Anderson, RPF 1209; Lawrence Cabodi, RPF 92; Robert Heyden, RPF 27; Robert Housley, RPF 2337; W.F. Penney, RPF 1221; Robert Spivey, RPF 1199; and Walter Thomas, RPF 591. Mr. O'Dell seconded the motion, and all were in favor.

Mr. Sendek then announce that J. Marvin Dodge, RPF 115 is deceased.

STANDING COMMITTEE REPORTS

Chairman Kerstiens said that there were no committee meetings, but asked each committee chair if there were any comments they would like to make.

Mr. O'Dell said that the Ecosystem Committee has been kept up to date with the mass wasting issue. He said that Trinda Bedrossian from the Department of Mines and Geology (DMG), reported that its maps are on the web and that CDs would be available by the end of July at a nominal fee.

Mr. Flynn asked if that would include all 50 maps.

Ms. Bedrossian, DMG, said that it would include all the maps. She then said that it would be a hard copy on disk and the cost would be around 10 to 15 dollars. She said that a list of references would also be available on the Web soon. Ms. Bedrossian said that DMG is also working on the final draft of guidelines for THPs to go out for a 45-Day Notice.

Mr. Heald said that at the last Forest Practice Committee (FPC) meeting, the Committee was working on stream crossing rules; road bonding in Sonoma County; the hardwood issue in the timber zones; and the Santa Cruz County rules proposal, which would not meet the January 1, 2000, deadline.

Mr. Rowney said that the Statute under 4516.5 allows counties to submit petitions to propose regulatory modifications for the County. He then explained the timeframes involved.

Mr. Heald said that the County suggested waiting to do the field trip until such time as there is a full Board.

Chairman Kerstiens suggested that members Heald, Flynn, and O'Dell work on issues that come up as an Interim Committee.

CONSIDERATION OF ISSUE REAISED IN CORRESPONDENCE REGARDING BROADCAST BURNING IN THE GUALALA RIVER WATERSHED

Mr. Rowney introduced the subject. He said that the issue appears to deal with the aesthetic value and not Air Quality.

Mr. Dean Lucke, CDF, Assistant Deputy Director for Forest Practices, said that during a review team meeting, some members of the public expressed some concern over the burning on a THP.

Mr. Roger Thompson, CDF, provided the Board with some background information.

Mr. Lloyd Stahl, CDF, showed slides of the THP area in question to the Board. A brief discussion followed.

Mr. Flynn suggested that Board staff write a letter to those who have written expressing concern over the issue.

Mr. Heald said that there is no mechanism in the rules that deals with aesthetics.

Mr. Young said that it was unfortunate that those concerned were not here today.

HEARING TO CONSIDER PROPOSED AMENDMENTS TO PORTIONS OF THE RULES PERTAINING TO THE REGISTRATION OF PROFESSIONAL FORESTERS (RPF)

Mr. Dan Sendek, Executive Officer for Professional Foresters Registration, provided some background and reviewed the proposed amendments for the Board.

Mr. Heald said that during meetings that were open to the public, the discussions were on increasing discipline, clean-up language, sorting out types of violations, verbiage related to training.

99-06-7 Mr. Flynn moved to close the Public Hearing. Mr. O'Dell seconded the motion, and all were in favor.

Mr. Ross Johnson, CDF, said that the Department supports the changes.

There were no public comments.

Chairman Kerstiens wanted to know how long this issue has been under discussion.

Mr. Sendek said that it has been about one year.

Mr. O'Dell said that the package has broad support. There were some language changes regarding self-imposed discipline and measure of commitment to the profession.

99-06-8 Mr. Flynn moved to approve the amendments to the Registration of Professional Foresters. Mr. Heald seconded the motion, and all were in favor.

EXECUTIVE OFFICERS REPORT

Mr. Christopher Rowney, Executive Officer for the Board, reviewed Legislation for the Board. He then reviewed the draft Board 1999 meeting schedule for the Board. He said that the draft has the September meeting occurring on August 30, 31, and September 1, 1999, this was due to Labor Day being on Monday, September 6. Following some discussion it was decided that provided there would be enough time for noticing, the Board would meet as indicated on the draft Board 1999 meeting schedule.

Mr. Rowney reminded the Board that the joint meeting with the Fish and Game Commission, previously scheduled for May, had been canceled due to the lack of a quorum of the Board. The next available time for the Commission to meet with the Board would be Wednesday, August 4, 1999, here in Sacramento.

Mr. Bob Treanor, Executive Director for the Fish and Game Commission, said that the Commission is very interested in meeting with the Board. He reviewed the membership of the Commission with the Board.

Mr. Rowney said that the July meeting would be on July 6 and 7.

PUBLIC FORUM

Ms. Tracie Thiele, Humboldt Watershed Council, provided the Board with a handout. She said that there is a need for a full-scale assessment of the Elk River and Freshwater watersheds. Using chemicals is a health issue.

Mr. Mark Rentz, California Forestry Association (CFA) said that there is concern regarding pending Air Resources Board regulations. He said that CFA is concerned about the justification for moving ahead with new regulations.

Chairman Kerstiens said that the Forest Service wants to expand its controlled burning efforts. He said that control burns and smoke management are very important issues.

Mr. Richard Gienger referred to a disciplinary action against an RPF. He said that he knows that the ultimate responsibility is on the RPF who signs the plan, but that in this case, the RPF was given misinformation. It was not the intent of the RPF to misrepresent the information on the plan. Mr. Gienger said that he was glad to see the Monitoring Study Group Report. He then referred to a letter from Senator Keeley regarding the Dr. Leslie Reed Report. He reviewed it for the Board. Mr. Gienger said that he understands the pressure the Board is under regarding the January 2000 deadline and offered some suggestions for meeting it.

PUBLIC HEARING TO CONSIDER A PETITION FROM THE FRESHWATER WORKING GROUP AND HUMBOLDT WATERSHED COUNCIL REQUESTING THE BOARD ADOPT EMERGENCY REGULATIONS

Chairman Kerstiens introduced the topic and reviewed the process.

Mr. Jan Kraepelien, Freshwater Working Group (FWG), provided some maps for the Board. He said that the FWG would consider splitting the petition into a moratorium in the Freshwater and Elk River Watersheds on future THPs; and stop-work orders on specific already approved THPs. He believes that the time is right to take action in the Freshwater Watershed. Mr. Kraepelien then reviewed the rate and type of logging that has occurred in the Freshwater Watershed. He said that the science which supports this logging concerns the FWG. They also are concerned over the vilification of Dr. Leslie Reed's Report. The FWG wants a moratorium on any further logging in order to prepare a watershed analysis.

Ms. Deborah Musick, Humboldt County resident, said that she supports the petition. She believes that the logging should be stopped until an independent analysis can be done.

Mr. Richard Gienger said that he supports the Petition--an emergency does exist. He urged a positive response to the petition. He believes the situation to be urgent. He said that there are 308 stream crossings that are worthy of corrective measures. This is direct input of sediment into the Elk River stream system and it is not being taken into account. He said that the Forest Practice Rules are not being properly implemented. He then gave some other examples. Mr. Gienger said that this was an opportunity for the Board to do something to stabilize the fisheries and watersheds.

Mr. Kraepelien suggested that the Board meet in Eureka before the winter months begin. The FWG is worried about what PL is doing--it is an emergency.

Mr. Young commented on procedure.

Director Tuttle asked for CDF staff to comment on the request for a moratorium of approving new plans.

Mr. Ross Johnson, Deputy Director for Resource Management, referred to the January 21, 1999, letter. Since that letter, no new plans have been approved, pending a watershed assessment. When the assessment is completed, CDF will hold a public hearing for the Freshwater Watershed.

Mr. Young asked about the authority for imposing a moratorium on a THP.

Mr. Johnson said that the Department is waiting for additional information to base its decision on the moratorium issue.

Mr. Flynn wanted to know how many plans the Department approved in the Elk River Watershed.

Mr. Johnson said that according to the petition, THP 1-98-038 Humboldt was approved in January 1999.

Mr. Dean Lucke, CDF, said that in Elk River, five plans were under review; and in the Freshwater Watershed, six plans were under review. The Department is waiting for the assessment to be completed before it approves any plans. Once the assessment is complete, the Department will hold a public meeting in the Freshwater area to let them know what it found from the assessment and how CDF is interpreting it. The Department's interpretation now is that it cannot do anything with the active plans. Those plans were approved pursuant to the Forest Practice Rules and CEQA. However, the Department can put additional measures on future plans to correct past errors.

Ms. Deborah Barnes, Deputy Attorney General and Counsel for the Board, said that under PRC 4583, "a THP shall perform to all rules which are in effect at the time that a plan becomes effective." She said that it also says, "except for

stocking standards which are in effect at the time of commencement of timber operations under a THP that shall remain in effect for any timberland harvested under such a plan.” Ms. Barnes said that there has not been any case law that has specifically addressed the retroactive application of new rules and statutes. She said that one could make an argument from this code section that there can be changes made to an approved harvest plan pursuant to new standards or rules as long as there have not been substantial liabilities incurred by the owner or operator. This would have to be looked at on a situation by situation basis.

Mr. Johnson said that it appears that this is a cumulative effects issue.

There was some further discussion.

Mr. Richard Gienger said that the Board should look at Section 4605 of the Public Resources Code. He said there is direct input of sediment from crossings into Elk River. He said that there should also be a public meeting in the Elk River area.

Mr. Herman said that PL is the largest landowner in both Freshwater and Elk River Watersheds. PL urges the Board not to adopt any Emergency Rules with respect to these watersheds. PL believes that the timber management in these areas is appropriate and not contributing to flooding. In order for the Board to adopt Emergency regulation it would need to be shown that there is an immediate threat to the public’s health, safety, and welfare. He then said that PL commissioned an evaluation of its timber management program that produced a report that was provided to the Board. He urged the Board to read the report. PL believes that the cause of the flooding is rainfall. He then reviewed parts of the report for the Board. Mr. Herman said that on behalf of PL he urged the Board not to adopt Emergency Rules in these watersheds.

Ms. Tracie Thiele said that a moratorium is in order. During the past four to six years, the hillsides have been held in place by timber. Slides are ready to happen.

Mr. Mark Rentz, California Forestry Association (CFA), said that CFA opposes the Emergency Petition. There is no correlation between harvesting and the slides. CFA believes that there is no immediate threat demonstrating a need for Emergency Rules.

Mr. Kent Stromsmoe addressed the issue of THPs already approved. If the Department cannot get a clear picture from its legal department, the Department has the authority to place restrictions on THPs or pull the plans after they have been approved. If it is within the authority of the Act for the Board to create such authority with the rule, it should do so. If that authority does not exist within the Act, then the Board and the Department should support legislation that would give it that type of authority.

Mr. Kraepelien said that several petitions have been put before this Board. There is a problem that needs to be addressed. He said that the science is in dispute. He then read a portion of Dr. Leslie Reed's Report into the record.

There was further discussion.

Mr. O'Dell said that things are happening that will accommodate some of the concerns, but he believes that the Board lacks authority.

Mr. Flynn said that there is a problem.

Mr. Heald said that have been changes in the way that plans have been reviewed and approved. There are things that need to be addressed in regulatory packages, to be more conservative about treatments or to provide better science for prediction. He believes that the people deserve a change in the review process. There needs to be a legal review on the issue of authority regarding a moratorium.

Ms. Barnes said that it might take a legislative action, but that she would research it and report back at the next meeting.

Chairman Kerstiens said that there is a need for more information.

Mr. Heald said that there is not enough information to do an immediate stop work order on 11 THPs.

Mr. Gienger said that he believes that the plans in question were approved in violation of the Forest Practice Act and Rules.

Mr. Young said that the Board should encourage UC Extension to expedite its review of the Freshwater issue.

Mr. Kraepelien suggested that the hearing for the Emergency Regulations be held over until next meeting and that the Board's Counsel finds the answer to the authority question.

99-06-8 Mr. Young moved to continue the public hearing until the July meeting. Mr. Heald seconded the motion, and all were in favor.

NEW AND UNFINISHED BUSINESS

Mr. Heald suggested that the Chairman consider a teleconference meeting of the Board concerning the 45-Day Notice for the Proposed Amendments to Section 895.1, 916 et seq., and 923 et seq. of Title 14 of the California Code of Regulations.

ADJOURNMENT

Chairman Kerstiens said that the June 1999 meeting was adjourned.

Respectfully submitted,

ATTEST:

Christopher P. Rowney
Executive Officer

Robert J. Kerstiens
Chairman

Copies of the attendance sheet may be obtained from the Board office.